

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JEAN B. ALFRED,

Petitioner,

07 Civ. 7609 (PAC) (HBP)

- against -

ORDER

MICHAEL B. MUKASEY, Attorney General
of the United States, Department of Homeland
Security New York District Director and Agents,¹

Respondents.
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HONORABLE PAUL A. CROTTY, United States District Judge:

Petitioner Jean B. Alfred ("Alfred") seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging his detention by the Department of Homeland Security ("DHS") pending the exhaustion of his administrative remedies. Petitioner does not challenge DHS's determination that he should be removed. The petition was referred to Magistrate Judge Pitman on September 6, 2007. By letter dated September 17, 2007, the Assistant United States Attorney informed Judge Pitman that Alfred was deported on September 6, 2007.²

Magistrate Judge Pitman issued his Report and Recommendation ("R & R") on September 26, 2007, recommending that as a result of Alfred's deportation, the petition should be dismissed as moot. Judge Pitman provided ten days for written objections, pursuant to Federal Rule of Civil Procedure 72(b), and specifically advised that the failure to file objections

¹ When Michael B. Mukasey became United States Attorney General his name was substituted for Alberto Gonzales, pursuant to Fed. R. Civ. P. 25 (d)(1).

² Maggy T. Duteau, former counsel to Petitioner, wrote to the court on September 5, 2007, stating that Jean B. Alfred had discharged her, and that he had retained new counsel, Attorney Adebola Asekun, for both the immigration and district court proceedings in this matter. Thereafter, on September 6, 2007, Ms. Duteau received the decision denying petitioner's Stay of Deportation. By the time Ms. Duteau notified new counsel of the decision, Petitioner had already been deported.

“will result in a waiver of objections and will preclude appellate review” (R & R at 3). No objections have been filed.

DISCUSSION

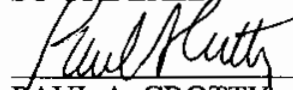
“To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F.Supp.2d 163, 169 (S.D.N.Y. 2003). The Court agrees with Magistrate Judge Pitman’s determination that, as a result of Alfred’s deportation, it is no longer possible to afford him any relief. Sango v. Reno, 00 Civ. 7983 (DLC), 2001 WL 1223427 at *3 (S.D.N.Y. Oct. 15, 2001). (“Because [the petitioner’s] deportation proceedings have become administratively final and he has been deported, the claim on which [the] petition is based, namely, that his detention . . . was illegal, is moot.”) Accordingly, The Court finds no error in Magistrate Judge Pitman’s report, and accepts and adopts the Report and Recommendation as its opinion. Alfred’s petition for a writ of habeas corpus is DENIED.

I decline to issue a certificate of appealability pursuant to 28 U.S.C. § 2253(c)(2). The petitioner has not made a substantial showing of a denial of a federal right, and appellate review is therefore not warranted. Further, Alfred did not file objections to the Report and Recommendation, as he was required to do in order to preserve his right to appeal. Pursuant to U.S.C. § 1915(a)(3), I also find that any appeal from this order would not be taken in good faith.

The Clerk of Court is directed to enter an order closing this case.

Dated: New York, New York
February 27, 2008

SO ORDERED



PAUL A. CROTTY
United States District Judge

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